O/Extradition/49.

1949. **File No.** G-19/49.

Legal Department

G **BRANCH**

**Subject:—** Opinion under the Indian Extradition Act.

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O/Extradition/49.

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# C O N T E N T S.

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The view taken by the Inspector General of Police, Jaipur and the Police Prosecutor, Crime Branch II, that the offences under the Cotton Cloth and Yarn Control Order, 1945 are not extraditable offences, is correct. The offences are punishable under the Essential Supplies (Temporary Powers) Act, 1946, and are not included in the 1st schedule to the Indian Extradition Act, 1903. However it would still be possible to ask for the surrender of the offender on the ground of reciprocity. There is a provision in section 9 of the Indian Extradition Act under which the States can make a requisition to the Central Government for the surrender of the accused and that section is not limited to extradition offences only. In view of this provision, on the ground of reciprocity this Government can make a requisition for the surrender of the accused from the States. The fact that Jaipur has now acceded to the Indian Dominion would make no difference. Political and Services Department may however be consulted as to the procedure to be followed in asking for the surrender of the accused (Please see Remembrancer of Legal Affairs opinion No. 2792 dated 20-3-48).

Sd/ P.M.Lad.
10/2

Remembrancer of Legal Affairs.

U.O.R. to P.T.C. No. G/139, dated the 11th Feb. 1949

VGP. 18-7-56.

The question for consideration is whether any arrangements have been devised for the service of summons or execution of warrants against persons in Pakistan.

From the letter from the Deputy Secretary, Government of India, Ministry of External Affairs and Commonwealth Relations No. F-23/47 O.S.V.(Pak) II dated 19th August 1948 to the Provincial Governments it will be seen that there has since been an agreement between the Governments of India and Pakistan regarding the procedure to be adopted for the extradition of fugitive offenders from Pakistan and vice versa and the extradition of such offenders is therefore now governed by that agreement ( vide letter from the Ministry of External Affairs and Commonwealth Relations No.F-23-1/47 O.S. (Pak) dated 10th March 1948). Under the said agreement the extradition of offenders between the two Dominions which form part of His Majesty's Dominions, is to be regulated by Part I of the Fugitive Offenders Act, 1881 read with Section 19 of the Indian Extradition Act, 1903/the Fugitive Offenders Act would apply only in respect of offences of piracy, treason and any offences punishable under the Indian Penal Code with regorous imprisonemtn for a term of 12 month or more. It would not therefore be legally feasible to extradite offenders from Pakistan who have committed offences in the Dominion of India under the Essential Supplies (Temporary Powers) Act, 1946 as these offences do not fall under any of the categories mentioned in Section 19 of the Indian Extradition Act.

Under sec 19 of the Indian Extradition Act, 1903

Regarding the collection of evidence and testimony of witnesses in criminal cases, no agreement has so far

far been reached." (vide para 2 of the Government of India letter dated 19th August 1948 mentioned above). As suggested by Political and Services Department if the Rationing Office has to carry out any correspondence with the Government of Pakistan then it should be through the channel of correspondence as indicated in the Government of India letter Ministry of External Affairs and Commonwealth Relations No. F/22/47- O.S. V dated 27th August 1947.

Sd/P.M.LAD.
8/7
R.L.A.

U.R. to C. of R. No. G/502, dated the 9th August.